

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	20 CR 93 (LTS)
	:	
MICHAEL ACKERMAN,	:	
	:	
Defendant.	:	
-----X	:	

ORDER

The Court has received and reviewed the parties’ respective memoranda submitted in connection with Defendant Michael Ackerman’s sentencing hearing scheduled for February 15, 2022. Defense counsel requests that Defendant’s sentencing submission be filed under seal in its entirety “because it contains a large amount of sensitive medical information and cannot be readily redacted,” and the Government requests that one paragraph of its sentencing memorandum (docket entry no. 66) be redacted in its public filing, in light of that paragraph’s reference to Mr. Ackerman’s prior health issue.

The Government’s sealing application is granted, and defense counsel’s sealing application is granted in part and denied in part. “It is well-recognized that the public has a strong right to sentencing memoranda under the First Amendment and the common law right to judicial records,” United States v. Pasqua, No. 16-CR-591-NSR, 2020 WL 7338082, at *6 (S.D.N.Y. Dec. 12, 2020) (citation omitted), and that right is particularly acute in a case like this one, where the parties stipulate to the existence of at least ten victims of the offense to which Defendant will be sentenced. The Government’s application to redact the one paragraph of its submission which references Mr. Ackerman’s prior health issue is granted without prejudice to

reconsideration in the event the parties discuss that issue at sentencing. See id., 2020 WL 7338082, at *6 (denying motion to redact information about the defendant’s medical condition where the parties “advocated for sentencing conditions on the basis of that condition”).

However, substantial portions of Defendant’s sentencing memorandum make no reference to his medical conditions at all,¹ or refer to those conditions only at a high level, and Defendant has not shown why the public filing of a copy of the memorandum with those portions unredacted would be unduly burdensome in this case. See United States v. Kravetz, 706 F.3d 47, 63 (1st Cir. 2013) (“We note again that redaction remains a viable tool for separating [medical documentation] from that which is necessary to the public’s appreciation of the sentence imposed.”).

Accordingly, no later than **5:00 p.m. on February 14, 2022**, Defendant shall file a redacted copy of its sentencing memorandum on the public docket.

The Court will file a copy of each party’s complete, unredacted memorandum under seal.

SO ORDERED.

Dated: New York New York
February 11, 2022

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

¹ For example, several paragraphs of pages 3 to 5 and 9 contain discussion of the offense conduct and Mr. Ackerman’s upbringing, and pages 7 to 8 contain legal argument about the applicable provision of the United States Sentencing Guidelines. Similarly, several of the sentencing submission’s exhibits consist of letters of support from Defendant’s friends and family, only portions of which reference Defendant’s medical conditions.